

STATE OF INDIANA  
LAKE COUNTY  
FILED

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**REAL ESTATE MORTGAGE**

**THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT** ("Instrument") is made this 12<sup>th</sup> day of January, 2000 by and between **GREATER FAITH CHURCH OF GOD IN CHRIST, INC.** ("Borrower"), and **EARNEST DURR and ARESIA DURR** ("Lender");

**WITNESSETH:**

**WHEREAS**, Borrower is indebted to Lender in the principal sum of Forty Two Thousand Five Hundred Eighty Seven and 75/100 Dollars (\$42,587.75), which indebtedness is evidenced by a Mortgage Note of even date herewith (herein "Note"), executed by Borrower;

**NOW, THEREFORE, TO SECURE TO LENDER** (i) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions, rewrites, refinances, modifications, consolidations and replacements thereof and substitutions therefor; (ii) the repayment of any future advances, with interest thereon, made by Lender to Borrower; (iii) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (iv) the performance of the covenants, agreements and warranties of Borrower herein contained; (v) all other liabilities of the Borrower in favor of the Lender, direct or indirect, absolute or contingent, primary or secondary, matured or unmatured, whether or not related to or of the same class as any specific debt secured hereby, now existing or hereafter arising;

**BORROWER DOES HEREBY** mortgage, warrant, grant, convey and assign to Lender, its successors and assigns, the following described real property in Lake County, State of Indiana, to-wit:

Lots 16 and 17 in Block 2 in Oakdale Addition to Tolleston, in the City of Gary, as per plat thereof, recorded in Plat Book 2 page 44, in the Office of the Recorder of Lake County, Indiana

together with all buildings, improvements, and tenements now or hereafter erected on the said real property, and all easements, rights, right-of-ways, driveways, pavement, curb, and street front privileges, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the said real property, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials and supplies stored on the said real property, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the said real property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, panelling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all of which, including improvements, replacements and additions thereto, shall be deemed to be and remain a part of the said real property covered by this Instrument, whether actually physically annexed to said real property or not; and all of the foregoing, together with said real property are herein referred to as the "Property."

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Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements, covenants, conditions and restrictions of record listed in the schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

Borrower hereby further covenants and agrees as follows:

**1. PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, the late charges as provided in the Note, the fees, costs and expenses in enforcing the Note and this Instrument and all other sums secured by this Instrument.

**2. BORROWER'S BREACH AND RIGHTS OF LENDER.** Upon Borrower's breach of any covenant, agreement or warranty of Borrower in this Instrument, Lender may pay, in any amount and in any order as Lender shall determine in Lender's sole discretion, any rents, taxes, assessments, insurance premiums, judgment liens, tax liens, mechanic's liens and other charges and impositions attributable to the Property which are now or will hereafter become due, which shall then become immediately due and owing by the Borrower to the Lender and secured by this Instrument pursuant to Paragraph 9 hereof.

**3. APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (i) amounts payable to Lender by Borrower under Paragraph 2 hereof; (ii) interest and late charges thereon payable on the Note; (iii) principal of the Note; (iv) interest payable on advances made pursuant to Paragraph 9 hereof; (v) principal of advances made pursuant to Paragraph 9 hereof; (vi) interest payable on any future advance, provided that if more than one future advance is outstanding, Lender may apply payments received among the amounts of interest payable on the future advances in such order as Lender, in Lender's sole discretion, may determine; (vii) principal of any future advance, provided that if more than one future advance is outstanding, Lender may apply payments received among the principal balances of the future advances in such order as Lender, in Lender's sole discretion, may determine; and (viii) any other sums secured by this Instrument in such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to Paragraph 9 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this Paragraph 3.

**4. CHARGES AND LIENS.** Borrower shall pay all utility, water and sewer charges, taxes, assessments, premiums, and other charges and impositions attributable to the Property. Borrower shall promptly furnish to Lender, upon request, all notices of amounts due under this Paragraph 4, and in the event Borrower shall make payment directly, Borrower shall, upon request, promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has, or may

have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property; provided that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

**5. HAZARD INSURANCE.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included with the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Lender shall require, and in such amounts and for such periods as Lender shall require. During the course of any construction or repair of improvements on the Property, builder's completed value risk insurance against "all risks of physical loss," including collapse and transit coverage, with deductibles not to exceed One Thousand and 00/00 Dollars (\$1,000.00), in non-reporting form, covering the total value of work performed and equipment, supplies and materials furnished shall be required. Said builder's completed value risk policy of insurance shall contain the "permission to occupy upon completion of work or occupancy" endorsement. All premiums on insurance policies shall be paid, at Lender's option, in the manner provided under Paragraph 33 hereof, or by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a Standard Mortgage Clause in favor and in form acceptable to Lender. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of said premiums. At least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within thirty (30) days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Borrower authorizes and empowers Lender as attorney-in-fact for Borrower to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceedings; provided, however, that nothing contained in this Paragraph 5 shall require Lender to incur any expense or take any action hereunder.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to the sums secured by this Instrument, with the excess, if any, paid to Borrower. Any such application to the sums secured by this Instrument shall not postpone the Borrower's obligations to make the next scheduled payment of interest and principal.



If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as the parties may mutually approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the payments provided for in the Note or herein or change the amounts of such payments. If the Property is sold pursuant to Paragraph 27 hereof, or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon, and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

**6. PRESERVATION AND MAINTENANCE OF PROPERTY.** Borrower shall not: (i) commit waste or permit impairment or deterioration of the Property; (ii) shall not abandon the Property; (iii) shall keep the Property, including improvements thereon, in good repair; (iv) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; and (v) shall give notice in writing to Lender of, and unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security to this Instrument or the rights or powers of Lender. Without the written consent of Lender, Borrower shall not remove, demolish or alter any improvement now existing or hereafter erected on the Property.

**7. USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property or any portion thereof without Lender's prior written consent.

**8. PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants, agreements and warranties contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in Paragraph 5 hereof.

Any amounts disbursed by Lender pursuant to this Paragraph 9, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear

interest from the date of disbursement at the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this Paragraph 9 shall require Lender to incur any expense or take any action hereunder.

9. **INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspections of the Property.

10. **BOOKS, RECORDS, AND FINANCIAL STATEMENTS.** Borrower shall keep and maintain at all times at Borrower's address, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and all other business operations of the Borrower, together with copies of all documents, correspondence, written contracts, leases and other instruments which are applicable to such operation. Such books of account, records, documents, correspondence, contracts, leases and other instruments shall be subject to examination, inspection and copying by the Lender at any reasonable time and from time to time.

11. **CONDEMNATION.** Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking or any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender for application as set out below.

In the event of a total taking of the Property, Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in Paragraph 3 hereof, with the balance, if any, to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Instrument such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Instrument immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of proceeds paid to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly interest payments and the principal payments required under the Note, or the payments required under this Instrument, or change the amount of such payments. Borrower agrees to execute such further

evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

**12. MODIFICATIONS.** From time to time, Lender may agree in writing with Borrower, at Lender's option, without giving notice to or obtaining the consent of any junior lienholder or guarantor, without liability on Lender's part and notwithstanding Borrower's breach of any covenant, agreement, or warranty of Borrower in this Instrument, to extend the time for payment of the principal or interest indebtedness secured by this Instrument, or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, and join in any extension or subordination agreement. Any action taken by Lender pursuant to the terms of this Paragraph 14 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants, agreements and warranties of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured by this Instrument, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

**13. FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under Paragraphs 5 and 13 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

**14. ESTOPPEL CERTIFICATE.** Borrower shall within ten (10) days of written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

**15. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Instrument is intended to be a security agreement pursuant to the Indiana Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Indiana Uniform Commercial Code, and Borrower hereby grants and transfers to Lender a security interest in said items and in the following addition items:



- (1) Said Escrow Account;
- (2) All of Borrower's plans and specifications, architect contracts, construction contracts, construction management agreements, material purchase agreements, applications, permits, licenses, and approvals given by governmental authorities, builder's and manufacturer's warranties or otherwise in the Property, accounts receivable and general intangibles;
- (3) All contracts for the sale of Residential Lots;
- (4) All utility company reimbursements and/or rebates;

(hereinafter referred to collectively as the "Additional Collateral"), now owned or hereafter acquired by Borrower, whether or not presently within the contemplation of the Borrower and Lender, and the proceeds thereof, to include insurance proceeds and tort claims or settlements.

Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for the Additional Collateral. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. Borrower hereby authorizes the Lender at the expense of the Borrower to execute and file a financing statement or statements on its behalf in those public offices deemed necessary by Lender to protect its security interest. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to the Additional Collateral. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require.

Upon Borrower's breach of any covenant, agreement or warranty of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Indiana Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in Paragraph 27 of this Instrument as to the Additional Collateral. In exercising any of said remedies, Lender may proceed against the Additional Collateral separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Indiana Uniform Commercial Code or of the remedies provided in Paragraph 27 of this Instrument.

**16. REMEDIES CUMULATIVE.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

17. **ACCELERATION IN CASE OF BORROWER'S INSOLVENCY.** If a petition under the United States Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, insolvency act, be filed by or against the Borrower, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a United States Bankruptcy Court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by Paragraph 27 hereof. Any attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to Paragraph 9 hereof.

18. **SALE OR TRANSFER OF THE PROPERTY.** Subject to the provisions of Paragraph 11 of this Instrument, on sale or transfer of: (i) all or any part of the Property, or any interest therein, or (ii) beneficial interests in the Borrower without the prior written consent of Lender, the Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by Paragraph 27 of this Instrument.

19. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (i) any notice to Borrower provided for in this Instrument or in the Note, other than notice of an interest rate change, shall be given by mailing such notice by certified mail addressed to Borrower at Borrower's address or at such other address as Borrower may designate by notice to Lender as provided herein, and (ii) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Instrument or in the Note, other than notice of an interest rate change, shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

20. **SUCCESSORS AND ASSIGNS, BINDING EFFECT, AGENTS AND CAPTIONS.** The covenants, agreements and warranties herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 20 hereof. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the Paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

21. **GOVERNING LAW AND SEVERABILITY.** This Instrument shall be governed by the laws of the State of Indiana. In the event that any provision of this Instrument or the Note conflicts with applicable law, such shall not affect other provisions of this Instrument or the Note which can be given effect with the conflicting provisions, and to this end the provisions of this Instrument and the Note are declared to be severable.



In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as other charges levied in connection with such indebtedness which constitutes interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

**22. WAIVER OF STATUTE OF LIMITATIONS.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

**23. WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property and the Additional Collateral shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property or the Additional Collateral and who has actual or constructive notice hereof, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

**24. ACCELERATION AND REMEDIES.** Upon Borrower's breach of any covenant, warranty, condition or agreement of Borrower in this Instrument, in the Note evidencing the indebtedness secured by this Instrument, including but not limited to, the covenants to pay when due any sums secured by this Instrument, or in any other agreement or instrument executed by Borrower in connection herewith and the failure of Borrower to cure such breach within the applicable cure period, Lender, at Lender's option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may foreclose this Instrument by judicial proceedings, and may invoke any other remedies permitted by applicable law or provided herein. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, appraisal fees, expert witness fees, costs of court reporters, travel expenses, costs of documentary evidence, abstracts and title reports.

25. **RELEASE.** Upon payment of all sums secured by this Instrument, Lender shall release this Instrument. Borrower shall pay Lender's reasonable costs incurred in releasing this Instrument.

26. **OTHER ENCUMBRANCES.** Borrower will not further mortgage or encumber the Property or the Additional Collateral in any way without the express written consent of the Lender.

27. **WAIVER OF VALUATION AND APPRAISEMENT.** Borrower hereby waives all right of valuation and appraisal.

28. **FURTHER ADVANCES.** Upon request of Borrower, Lender, at Lender's option and sole discretion, so long as this Instrument secures indebtedness held by Lender, may make future advances to Borrower. Such future advances, with interest thereon, shall be secured by this Instrument.

29. **HAZARDOUS MATERIALS.** Borrower represents and warrants to the Lender that (i) the Borrower has not used Hazardous Materials (as defined below), on, from or affecting the Property in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Borrower's knowledge, no prior owner of the Property or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Property in any manner which violates federal, state or local law, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (ii) the Borrower has never received any notice of any violations (and is not aware of any existing violations) of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials at the Property and, to the best of the Borrower's knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Property; (iii) Borrower shall keep or cause the Property to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable federal, state and local laws and regulations; and, without limiting the foregoing, Borrower shall not cause or permit the Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Borrower cause or permit, as a result of any intentional or unintentional act or omission on the part of Borrower or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazard Materials onto the Property or onto any other contiguous property; (iv) Borrower shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Property as required by all applicable federal, state and local laws, ordinances, rules, regulations and policies to the satisfaction of the Lender, and in accordance with the orders and directives of all federal, state and local governmental authorities. If the



Borrower fails to conduct an environmental audit required by the Lender, the Lender may at its option and at the expense of the Borrower, conduct such audit.

Subject to the limitations set forth below, the Borrower shall defend, indemnify and hold harmless the Lender, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorney's and consultant fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from or affecting the Property or the soil, water, vegetation, buildings, personal property, persons or animals; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on the Property; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials with respect to the Property, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Lender which are based upon or in any way related to such Hazardous Materials used in the Property. The indemnity obligations under this Paragraph 32 are specifically limited as follows:

- (i) Borrower shall have no indemnity obligation with respect to Hazardous Materials that are first introduced to the Property or any part of the Property subsequent to the date that the Borrower's interest in and possession of the Property or any part of the Property shall have fully terminated by foreclosure of this Instrument or acceptance of a deed in lieu of foreclosure;
- (ii) Borrower shall have no indemnity obligation with respect to any Hazardous Materials introduced to the Property or any part of the Property by the Lender, its successors or assigns.

Borrower agrees that in the event this Instrument is foreclosed or the Borrower tenders a deed in lieu of foreclosure, Borrower shall deliver the Property to the Lender free of any and all Hazardous Materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Property.

For the purposes of this Instrument, "Hazardous Materials," includes without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 19601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local governmental law, ordinances, rule or regulation.



The provisions of this Paragraph 32 shall be in addition to any and all other obligations and liabilities the Borrower may have to the Lender under the Note, any loan document, and in common law, and shall survive (a) the repayment of all sums due for the debt, (b) the satisfaction of all of the other obligations of Borrower in this instrument, the Note and under any other loan documents, (c) the discharge of this Instrument, and (d) the foreclosure of this Instrument or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Instrument, it is the intention of the Borrower and the Lender that the indemnity provisions of this Paragraph 32 shall only apply to an action commenced against any owner or operator of the Property in which any interest of the Lender is threatened or any claim is made against the Lender for the payment of money.

**30. ADDITIONAL AFFIRMATIVE AND NEGATIVE COVENANTS OF BORROWER.** Until all sums secured by this Instrument have been paid in full and until all obligations of the Borrower to the Lender under the Note, this Instrument and in all other agreements and instruments executed by the Borrower in connection herewith have been satisfied in full, the Borrower agrees that it will strictly observe the following covenants:

- (a) The Borrower shall furnish to the Lender the following:
  - (1) True and complete copies of all orders in any material proceedings to which the Borrower is a party issued by any court or regulatory agency (Federal, state or local), promptly after the issuance of any such order.
  - (3) From time to time such other information concerning the Borrower together with copies of relevant documents, correspondence and instruments, as the Lender may reasonably request.
- (b) The Borrower shall permit the Lender to inspect the Property, both real and personal, and its operations at all reasonable times.
- (c) The Borrower shall maintain material compliance with the applicable provisions of all Federal, state and local statutes, ordinances and regulations and any court orders and orders of regulatory authorities.
- (d) With respect to the development of the Residential Lots:
  - (1) The Lender and its agents shall have at all reasonable times the right of entry and free access to the Property, the right to inspect all work done, labor performed and material furnished in connection with all construction, and the right to inspect and copy all books, contracts, subcontracts and records of the Borrower pertaining to all such development and construction.

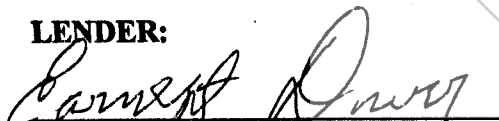


- (2) The Borrower shall furnish the Lender with true and complete copies of all applications and petitions filed with local governmental authorities in connection with all development and construction.
- (3) The Borrower shall pay fully and discharge or cause to be paid fully and discharged all claims for labor done and for material and services furnished in connection with all development, construction and sales, and shall take all other reasonable steps to forestall the assertion of claims of lien against the Property.
- (e) The Borrower shall not be a guarantor or surety of, or otherwise be responsible in any manner with respect to any undertaking of any other person or entity. The Borrower shall not make or permit to exist any loans or advances to pay any other person or entity.
- (f) The Borrower shall not enter into any agreement containing any provision which would be violated or breached in material respect by the performance of its obligations under the Note, this Instrument, or any other agreement or instrument executed by the Borrower in connection herewith.

**31. WAIVER OF JURY TRIAL.** The Lender and the Borrower after consulting or having had the opportunity to consult with legal counsel, knowingly, voluntarily and intentionally waive any right either of them may have to a trial by jury in any litigation based upon or arising out of this Instrument, the Note or any related instrument or agreement or any of the transactions contemplated by this Instrument or any course of conduct, dealing, statements, whether oral or written, or actions of either of them. Neither the Lender nor the Borrower shall seek to consolidate, by counterclaim or otherwise, any action in which a jury has been waived with any other action in which a jury trial cannot be or has not been waived. These provisions shall not be deemed to have been modified in any respect or relinquished by either the Lender or the Borrower except by a written instrument executed by both of them.

**IN WITNESS WHEREOF**, the undersigned Borrower has executed this Instrument as of the day and year first above written by its duly authorized general partner.

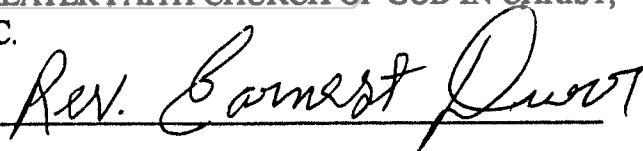
**LENDER:**

  
\_\_\_\_\_  
Earnest Durr

  
\_\_\_\_\_  
Aresia Durr

**BORROWER:**

GREATER FAITH CHURCH OF GOD IN CHRIST,  
INC.

By:   
\_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

I, the undersigned, a Notary Public in and for said County, in the State, do hereby certify that on this day personally appeared before me, GREATER FAITH CHURCH OF GOD IN CHRIST, INC., by Rev. Earnest Durr, who acknowledged and certified that it signed and delivered the said Instrument as its free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 12<sup>th</sup> day of January, 2000.

Signed: Mark S. Lucas  
(Notary Public)

Print: Mark S. Lucas

My Commission Expires: 8/24/01

My County of Residence: LAKE

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

I, the undersigned, a Notary Public in and for said County, in the State, do hereby certify that on this day personally appeared before me, EARNEST DURR and ARESIA DURR, personally known to me to be the same people whose names are subscribed to the foregoing Instrument and who acknowledged and certified that they signed and delivered the said Instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 12<sup>th</sup> day of January, 2000.

Signed: Mark S. Lucas  
(Notary Public)

Print: Mark S. Lucas

My Commission Expires: 8/24/01

My County of Residence: LAKE

This instrument prepared by: Mark S. Lucas, Attorney at Law,  
300 East 90th Drive  
Merrillville, Indiana 46410